



ATTENTION

Probate cases on this calendar are currently under review by the probate examiners. Review of some probate cases may not be completed and therefore have not been posted.

If your probate case has not been posted please check back again later.

Thank you for your patience.

**Amended Waiver of Accounting and Petition for Final Distribution and for
Allowance of Compensation**

DOD: 11-17-07		BRENT WISE , Son, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: Continued from 2-19-14, 3-27-14 As of 4-9-14, nothing further has been filed. The following issues remain: 1. Petitioner Brent Wise has not been appointed as Successor Administrator and therefore has no standing to bring this petition. Brent Wise will first need to be appointed as Successor Personal Representative. 2. The original petition for probate alleged \$13,033.80 in personal property assets. However, I&A filed 3-14-08 indicated "various household furnishings and personal effects" valued at \$500.00 by the Administrator Jack Wise, rather than by the Probate Referee as required by Probate Code §8900. The Court may require clarification regarding the discrepancy in the amounts, and may require amended appraisal in accordance with applicable law. 3. Petitioner requests distribution to himself as the heir of both this decedent and the former Administrator/spouse of the decedent, who is entitled to a ½ share of this estate. However, Pursuant to Probate Code §11802, distribution to a post-deceased heir must be made to the personal representative of his estate. Court records show that Petitioner was appointed as Executor of his father's estate on 10-2-13 in 13CEPR00643. <u>Therefore, need amended distribution.</u> <u>Note:</u> Petitioner filed a Petition for Final Distribution of the estate of Jack Wise that was continued to 4-29-14; however, without distribution from <u>this</u> estate, it does not appear that <u>that</u> estate is in a position to close. 4. Petitioner includes a fee computation of \$20.00 based on the Administrator's value assigned to personal property assets in the I&A. Petitioner does not appear to request payment, but does appear to reduce the proposed distribution by \$20. <u>Need clarification:</u> If the assets on hand consist solely of personal property items rather than cash, as stated, how is the distribution reduced by \$20? Who is \$20 to be paid to? Pursuant to Probate Code §12205, compensation may be reduced due to delay in closing the estate. 5. <u>Need order.</u>
Cont. from 021914, 032714		JACK WISE , Spouse, was appointed as Administrator with Full IAEA without bond on 3-25-08.	
	Aff.Sub.Wit.		
✓	Verified		
✓	Inventory	X	
✓	PTC		
	Not.Cred.		
	Notice of Hrg		
	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters	X	
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order	X	
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
N/A	FTB Notice		

Atty **Petty, Teresa B. (for Ernest Ong – Administrator – Petitioner)**

(1) First and Final Account and Report of Administrator and Petition for Settlement Thereof and (2) for Allowance of Administrator's Compensation for Ordinary Services and (3) for Allowance of Attorney Fees for Ordinary Services and for Extra-Ordinary Services and for (4) Final Distribution

DOD: 8-28-11		ERNEST ONG , Administrator with Full IAEA without bond, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Account period: 8-28-11 through 1-10-14	<u>Continued from 3-24-14</u>
Cont. from 032414			<u>As of 4-9-14, nothing further has been filed. The following issues remain:</u>
	Aff.Sub.Wit.	Accounting: \$ 453,213.84	<u>SEE ADDITIONAL PAGES</u>
✓	Verified	Beginning POH: \$ 336,683.52	
✓	Inventory	Ending POH: \$ 71,844.33 (cash)	
✓	PTC	Administrator (Statutory): \$10,858.27 (See <i>NEEDS/PROBLEMS/COMMENTS.</i>)	
✓	Not.Cred.		
✓	Notice of Hrg	Attorney (Statutory): \$10,858.27 (See <i>NEEDS/PROBLEMS/COMMENTS.</i>)	
✓	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.	Attorney (Extraordinary): \$4,520.00 (for work in connection with the sale of the real property, including avoiding foreclosure and preparation of the various agreements, consents and negotiations with the beneficiaries, unusual circumstances requiring negotiations with creditors and beneficiaries, establishing an ancillary probate for out of state property. Work also included resolving another estate administration in Stanislaus County for which this decedent was the administrator. Extraordinary services total \$6,370.00 for 11 attorney hours @ \$200/hr and 40.5 paralegal hours @ \$100/hr. Attorney will accept the reduced amount of \$4,520.00.	
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
✓	9202	Closing: \$500.00	
✓	Order	Distribution pursuant to intestate succession, Agreement Among Beneficiaries, and various disclaimers:	
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
✓	FTB Notice	Arlene Ong: \$15,035.95 Kathleen Ruiz: \$15,035.95 Christofer Gong-Chun: \$15,035.95	

Reviewed by: skc**Reviewed on:** 4-9-14**Updates:****Recommendation:****File 4 – Gong-Chun**

NEEDS/PROBLEMS/COMMENTS:

1. Petitioner states that pursuant to the Agreement Among Beneficiaries, Michael Gong-Chun was allowed to purchase the residence at a reduced price, taking into consideration payments made to the mortgage company and rent paid to the estate as his share of the estate. However, he then signed a Disclaimer of Interest in the estate. A disclaimer is irrevocable per Probate Code §281 and results in distribution as if the disclaimant had predeceased the decedent. Petitioner assumes the beneficiaries are now the three remaining siblings pursuant to the Agreement; however, it appears that Michael Gong-Chun's issue are now entitled to his share of the remainder of estate. The Court may require authority for omitting Michael Gong-Chun's issue from distribution of the remainder of the estate with reference to the Disclaimer.
2. The agreement and attached lease indicate that Michael Gong-Chun was paying rent; however the Receipts Schedule does not indicate rent received by the estate. Need clarification. Who was the rent paid to? The Disbursements Schedule indicates that the estate was paying for household expenses such as AT&T and mortgage payments after the death of the decedent, when it appears the house was occupied by Michael Gong-Chun. Need clarification.
3. The accounting does not appear to be prepared correctly. The Receipts Schedule includes items that are not "receipts" pursuant to Probate Code §1061(a)(3). For example:
 - The estate obtained a \$10,000.00 loan from Jong Chun, to pay off the auto loan before selling the vehicle (which loan was not authorized by the Court pursuant to Probate Code §9800 et seq.). That \$10,000.00 was repaid with interest and is not a "receipt" for purposes of calculating compensation.
 - Similarly, Disbursements Schedule indicates \$56.04 was paid to California Baptist Foundation for "Court in Hawaii (Estate Admin.);" Receipts Schedule indicates this same amount was received as reimbursement on 1-10-14. If this was a loan, this amount is also not a "receipt" for compensation purposes.
 - The vehicle, originally valued at \$25,000.00, was then sold for \$28,000.00, resulting in a \$3,000.00 gain from the original I&A value. However, in addition to the \$3,000.00 gain, Petitioner included the \$25,000.00 balance as a "receipt." This is not correct. The \$25,000.00 is already included in as an asset on the I&A. That value does not get counted twice in calculating the statutory fee.
 - A brokerage account valued at \$8,062.38 is Item No. 2 on I&A Partial No. 2 filed 8-30-12. The transfer of those same funds to another estate account does not constitute a "receipt" because that amount is already included as an asset on the I&A. (Note: Gains Schedule indicates a gain of \$854.60 as accumulated income on this account. However, Petitioner does not state whether the asset changed form (i.e., assets held in the brokerage account sold or liquidated to cash), which would be a gain, or whether cash was simply transferred to another account with interest received, which may just be a receipt. Similar to the vehicle issue, though, the \$8,062.38 does not get counted twice.

By incorrectly categorizing these items as "receipts," the statutory compensation is incorrectly inflated.

Therefore, need amended accounting, including amended calculation of statutory fees and amended final distribution.
4. Need clarification regarding extraordinary fees requested in connection with the Ancillary Probate. The work performed appears to be typical probate work (research, forms, communications, etc.) that would be statutory within that probate matter and should be requested in that matter.